



Civil Resolution Tribunal

Date Issued: April 17, 2020

File: SC-2019-010179

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sagert v. Christiansen*, 2020 BCCRT 417

BETWEEN:

RICHARD SAGERT

APPLICANT

AND:

WILSON ANDREW CHRISTIANSEN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This small claims dispute is about a motor vehicle accident that occurred on September 26, 2019. The applicant, Richard Sagert, and the respondent, Wilson Andrew Christiansen, were each driving westbound in a roundabout at the

intersection of Yale and Evans Roads in Chilliwack, British Columbia, when their two vehicles collided.

2. The applicant says the respondent moved into his lane in an attempt to exit the roundabout, striking his vehicle on the rear driver's side door. In contrast, the respondent says he entered the roundabout first and the applicant failed to yield the right of way when the respondent wanted to exit the roundabout.
3. The parties are both insured by the Insurance Corporation of British Columbia (ICBC). ICBC internally concluded that the applicant was 100% at fault for the accident.
4. The applicant says the respondent should be held 100% responsible for the accident for unsafely changing lanes in the roundabout. The applicant seeks \$300, the return of the deductible he says he paid.
5. The applicant is self-represented. The respondent is represented by an ICBC adjuster.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
7. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes

proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary.

8. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
9. In resolving this dispute the tribunal may make one or more of the following orders, where permitted by section 118 of the CRTA:
 - a. Order a party to do or stop doing something;
 - b. Order a party to pay money;
 - c. Order any other terms or conditions the tribunal considers appropriate.

ISSUE

10. The issue in this dispute is who is liable for the accident, and if not the applicant, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

11. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
12. The following facts are undisputed:
 - a. On September 26, 2019, before reaching a roundabout, the applicant and respondent were both traveling westbound in the right-hand lane on Yale Road, approaching Evans Road.

- b. The relevant details of the roundabout at Yale and Evans Roads are that from Yale Road traveling westbound, there are two lanes entering the roundabout intersection with Evans Road. In the roundabout, there are also two lanes, a left-hand inside lane, and a right-hand outside lane. Those two roundabout lanes can exit onto Evans Road northbound, and onto Yale Road westbound.
 - c. It is unclear whether, before entering the roundabout, the applicant was ahead of the respondent, or vice versa. The applicant says he entered the roundabout first, while the respondent says he was the first to enter.
 - d. When in the roundabout at Evans Road, the applicant was in the outside, right-hand lane, and the respondent was in the inside, left-hand lane.
 - e. The applicant's intention was to travel across the roundabout, and continue on Yale Road westbound, the second "exit" after entering the roundabout. The respondent's intention was to turn right on Evans Road northbound, the first "exit" after entering the roundabout.
 - f. When the respondent attempted to exit the roundabout onto Evans Road northbound, his front passenger side bumper struck the applicant's rear driver's side door.
13. ICBC determined that the applicant was solely responsible for the accident for failing to yield to the respondent. As noted above, the applicant says it was the respondent who caused the accident by unsafely changing lanes in the roundabout.
14. For the following reasons, I find the respondent is 100% at fault for the accident. I say this because although the respondent told ICBC he did not change lanes when entering the roundabout, I find that is inconsistent with his version of events. Namely, the respondent consistently says he entered the roundabout from the right-hand lane of Yale Road. He also states that while in the roundabout, he was always in the left-hand lane, and his goal was to turn right out of the roundabout, across the right-hand lane, and onto Evans Road northbound. In attempting to do so, the collision occurred. Based on this description of events, given the roundabout's

layout I find it was impossible for the respondent to move from the right-hand lane on Yale Road, to the inside left-hand lane of the roundabout, without changing lanes.

15. Because I have found the respondent changed lanes when entering the roundabout, it follows that in order to turn right out of the roundabout onto Evans Road northbound, he needed to cross over the roundabout's right-hand lane. It was at this time the parties' vehicles collided, as the applicant's vehicle was in the right-hand lane proceeding to the next exit. It is undisputed the applicant remained in the right-hand lane at all material times. The markings on the road indicate that, having entered the roundabout from westbound Yale Road, in order to turn right at Evans Road, the respondent should have remained in the right-hand lane during his time in the roundabout. I find the evidence shows he did not do so. I find the respondent was in the incorrect lane to exit the roundabout at Evans Road, having entered from the right-hand lane of Yale Road westbound. The respondent chose the wrong, inside lane, instead of remaining in the right-hand lane as required by the street markings. So, I find it does not matter who entered the roundabout first. I find the applicant was entitled to continue in his lane of travel and was not required to yield to the respondent who was improperly crossing the applicant's lane of travel to exit the roundabout.
16. Section 151(a) of the *Motor Vehicle Act* says that a driver must not move from one lane to another unless the movement can be done with safety and will in no way affect the travel of another vehicle. Here, I find the respondent entered into the applicant's lane to exit the roundabout when it was unsafe to do so, given the proximity of the applicant's vehicle. As a result, I find the respondent was negligent when he attempted to exit the roundabout at Evans Road, having already moved his vehicle into the left-hand lane when he entered the roundabout. Had the respondent stayed in the right-hand lane, as indicated by the road markings, the accident would not have occurred. I find the respondent 100% at fault for the accident.

17. I turn then to the appropriate remedy. As noted above, the applicant claims \$300 for reimbursement of his paid deductible. Given that I have found the respondent fully liable for the accident, I find he must reimburse the applicant the claimed \$300 deductible. Neither the respondent nor his ICBC representative challenged this amount in the respondent's Dispute Response or submissions.
18. The *Court Order Interest Act* applies to the tribunal. There is no evidence before me as to when the applicant paid the \$300 deductible. On a judgment basis, I find the applicant is entitled to pre-judgment interest on the deductible from October 26, 2019, one month after the accident. This equals \$2.80.
19. Under section 49 of the CRTA, and the tribunal rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As the applicant was successful, I find that he is entitled to reimbursement of the \$125 he paid in tribunal fees. No dispute-related expenses were claimed.

ORDERS

20. Within 30 days of the date of this decision, I order the respondent, Wilson Andrew Christiansen, to pay the applicant, Richard Sagert, a total of \$427.80, broken down as follows:
 - a. \$300 for reimbursement of his deductible,
 - b. \$2.80 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in tribunal fees.
21. The applicant is also entitled to post-judgment interest, as applicable.
22. Under section 48 of the CRTA, the tribunal will not provide the parties with the order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the

tribunal's final decision. The Minister of Public Safety and Solicitor General has issued Ministerial Order No. M086 under the *Emergency Program Act*, which says that tribunals may waive, extend or suspend a mandatory time period. The tribunal can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the tribunal will not have this ability. A party should contact the tribunal as soon as possible if they want to ask the tribunal to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.

23. Under section 58.1 of the CRTA, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Andrea Ritchie, Vice Chair